

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **September 24, 2002**

AGENDA ITEM NO.: **7**

CONSENT:

REGULAR: **X**

CLOSED SESSION:

ACTION: **X**

INFORMATION:

(Confidential)

ITEM TITLE: **Water Conservation Ordinance**

RECOMMENDATION:

Adopt a proposed ordinance to implement a water conservation plan.

SUMMARY:

The Commonwealth of Virginia has been in a drought since 1999. The City of Lynchburg should have in place an enforceable staged drought plan to reduce water use if the drought continues or if an emergency occurs that diminishes the quantity or quality of available water resources.

Furthermore, Governor Warner's Executive Order restricting water use across the Commonwealth requires local action for enforcement. The attached ordinance would allow the City to enforce the Governor's action. In order to do so, there would need to be an immediate declaration of Condition II.

The attached ordinance provides for a staged approach to water conservation and provides for penalties to be applied to water bills in the event that enforcement action becomes necessary. It also attempts to have minimal impact on businesses that require water to operate.

PRIOR ACTION(S):

June 25, 2002 - presentations to Council work session on Pedlar Reservoir and James River and water utilization

September 3, 2002 - presentation to Physical Development Committee on a water conservation ordinance.

FISCAL IMPACT: Water conservation would have an adverse impact on water and sewer revenues

CONTACT(S):

Stephen Bontrager, Director of Utilities, 847-1322 x107
Bruce McNabb, Director of Public Works, 847-1362

ATTACHMENT(S): Proposed Water Conservation Ordinance

REVIEWED BY: lkp

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF LYNCHBURG, 1981, BY ADDING THERETO CHAPTER 39, A NEW ARTICLE ENTITLED WATER EMERGENCIES CONSISTING OF SECTIONS 39-90 THRU 39-96 RELATING GENERALLY TO WATER RESTRICTIONS IN THE CITY OF LYNCHBURG.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG:

1. That the Code of the City of Lynchburg, 1981, as amended, be further amended by adding thereto a new article under Chapter 39 entitled Water Emergencies consisting of Sections 39-90 thru 39-96, as follows:

ARTICLE V. WATER EMERGENCIES

Sec. 39-90. Authority to declare water emergencies.

During the continued existence of climatic, hydrological and other extraordinary conditions the protection of the health, safety and welfare of the residents of the City of Lynchburg may require that certain uses of water, not essential to public health, safety and welfare, be reduced, restricted or curtailed. As the shortage of raw or potable water becomes increasingly more critical, conservation measures to reduce consumption or curtail nonessential water use may be necessary.

The city manager, with the approval of the mayor, is authorized to declare a water emergency in the city restricting the use of water in any area of the city. All water stages are built upon and require compliance with previous water stages. For example when stage 3 is declared all provisions of stage 2 are in effect. Also the city manager may declare any of the four stages, they do not have to be declared sequentially.

Sec. 39-91. Publication of declaration.

Upon the declaration of a water emergency, the city manager shall immediately post a written notice of the emergency at the front door of the city hall and shall place a notice in a newspaper of general circulation in the area in which such emergency has been declared.

Sec. 39-92. Water use considerations.

Upon the declaration of a water shortage or emergency, the city manager is authorized and directed to implement conservation measures by ordering the restricted use or absolute curtailment of the use of water for certain nonessential purposes for the duration of the water shortage or emergency in the manner hereinafter set out. In exercising this discretionary authority, and making the determinations set forth hereof, the city manager shall give due consideration to water levels, available/usable storage on hand, draw down rates and the projected supply capability in Pedlar reservoir and available James River flows; system purification and pumping capacity; daily water consumption and consumption projections of the system's customers; prevailing and forecast weather conditions; fire service requirements; pipeline conditions including breakages, stoppages and leaks; supplementary source data; estimates of minimum essential

supplies to preserve public health and safety and such other data pertinent to the past, current and projected water demands.

Sec. 39-93. Limitation of restrictions.

The provisions of this article shall not apply to any governmental activity, institution, business or industry which shall be declared by the city manager, upon a proper showing, to be necessary for the public health, safety and welfare or the prevention of severe economic hardship or the substantial loss of employment. Any activity, institution, business or industry aggrieved by the finding of the city manager may appeal that decision to the city council.

Sec. 39-94. Water conservation measures.

Upon a determination by the city manager of the existence of the following conditions, the city manager shall take the following actions that shall apply to any person whose water supply is furnished from the city water system:

(a) Stage 1: When moderate but limited supplies of water are available, the city manager shall, through appropriate means, call upon the general population to employ prudent restraint in water usage, and to conserve water voluntarily by whatever methods available.

(b) Stage 2: When very limited supplies of water are available, the city manager shall order curtailment of less essential usages of water, including, but not limited to, one or more of the following:

(1) The watering of shrubbery, trees, lawns, grass, plants, or any other vegetation, except indoor plantings, greenhouse or nursery stocks and except limited watering for new lawns and watering by commercial nurseries of freshly planted plants upon planting and once a week for five (5) weeks following planting. Athletic fields are also exempt but shall only be watered to match the evaporation-transpiration rate. In all cases where the above exceptions apply, the watering is not to occur between the hours of 8:00 a.m. and 8:00 p.m. Watering with buckets that have a capacity of five (5) or fewer gallons is permitted at any time.

(2) The washing of automobiles, trucks, trailers, boats, buses, airplanes, or any other type of mobile equipment, except in facilities operating with a water recycling system. The facility shall post a notice in public view that a recycling system is in operation. Exceptions are for vector trucks, refuse trucks, septage haulers and city buses. Other exceptions must be approved by the director of utilities or a designee and be demonstrated to be necessary for health and safety purposes.

(3) The washing of sidewalks, streets, driveways, parking lots, service stations aprons, office buildings, exteriors of homes or apartments, or other outdoor surfaces, unless the use is approved by the director of utilities for health and safety.

(4) The operation of any ornamental fountain or other structure making a similar use of water.

(5) The use of water from fire hydrants for any purpose other than fire suppression unless the use has been approved by the director of utilities.

(6) Water service lines from the meter box to the home or structure shall be maintained and have no visible leaks.

(7) Restaurants may serve water to customers only upon request.

(c) Stage 3: When critically limited supplies of water are available, the city manager shall institute a water surcharge on each residential and commercial customer as follows:

The maximum allowable water use at the prevailing city rate will be the average water billed in November through April of the previous year. The actual water use will be recorded for each month and the sum divided by the number of months. The result is the allowable water use in hcf. The result will be rounded down to the nearest whole hcf. This is the maximum amount of water use that will be allowed at the prevailing rate in hcf and is termed the base amount. Use of water over this amount is subject to a surcharge of twenty-five percent (25%) up to one hundred percent (100%). The surcharge is calculated by subtracting the base amount from the actual water use and the remaining hcf is multiplied by the prevailing water rate multiplied by as an example 1.25. The total water portion of the bill is the base amount times the prevailing rate, the amount in excess of the base amount at the surcharge rate plus other applicable fees. For accounts less than one year old the base amount is fixed at 11 hcf. Failure to pay the full amount of the bill, when due, can result in water service termination. A fifty dollar (\$50.00) charge will be collected prior to service reconnection.

(d) Stage 4: When crucially limited supplies of water are available, the city manager shall restrict the use of water to purposes which are absolutely essential to life, health and safety.

Sec. 39-95. Penalty and enforcement.

(a) Any person who violates any provision of this article shall be subject to the following civil penalties:

(1) For the first offense, violators shall receive a written warning delivered in person or posted by a representative of the City of Lynchburg utilities division.

(2) For the second offense, violators shall be fined fifty dollars (\$50.00), the fine to be imposed on the violator's next water bill, or in the case of violators not on the city's public water system, in a written notice.

(3) For the third and each subsequent offense, violators shall be fined one hundred dollars (\$100.00) for each offense, the fine to be imposed on the violator's next water bill, or in the case of violators not on the city's public water system, in a written notice.

(4) Each violation by a person shall be counted as a separate violation by that person, irrespective of the location at which the violation occurs.

(5) The city manager may suspend water service to any person continuing to violate the provisions of this article or the regulations promulgated thereunder. If such water service is terminated, the person shall pay a reconnection fee of fifty dollars (\$50.00) before service is restored.

(b) Persons who have been assessed a penalty shall have the right to challenge the assessment by providing a written notice to the director of utilities within ten (10) days of the date of the assessment of the penalty. The director or his designee shall determine that the penalty was properly assessed and notify the complaining person in writing of his determination. Should the

director or his designee determine that the penalty was properly assessed, the person may appeal that determination by providing written notice to the public works director within ten (10) days of receiving the notice determination. The public works director or his designee shall determine whether the penalty was properly assessed and notify the complaining person in writing of his determination.

(c) The director of utilities or his designee may waive the penalty if he determines that the violation occurred due to no fault of the person.

Sec. 39-96. Notification of end of water emergency.

The city manager shall notify the city council when, in his opinion, the water emergency situation no longer exists. Upon concurrence of the city council, the water emergency shall be declared to have ended. When this declaration is made, the information shall be conveyed to the general public through the news media.

2. That this ordinance shall become effective on its passage.

Adopted:

Certified:

Clerk of Council

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